

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WINE & CANVAS DEVELOPMENT LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:11-cv-01598-TWP-DKL
)	
THEODORE WEISSER, CHRISTOPHER)	
MUYLLE, YN CANVAS CA, LLC, and)	
WEISSER MANAGEMENT GROUP, LLC,)	
)	
Defendants.)	

ENTRY ON MOTION TO STRIKE

This matter is before the Court on Defendant Christopher Muylle's Motion to Strike Plaintiff's and Third Party Defendants' Response in Opposition to Muylle's Motion for Summary Judgment and Countermotion for Summary Judgment (Dkt. 282). For the reasons described below, this motion is **GRANTED**.

This highly contentious case again requires the Court to speak to the actions of counsel bogging down the Court's docket with unnecessary and improper filings. First, the Court refers to Docket Entry 283, which informs the Court that Plaintiff Wine & Canvas Development LLC ("Wine & Canvas") intends to respond to an outstanding motion prior to the due date. There is no requirement and no necessity for such a filing. There is no penalty for filing a response early, and Wine & Canvas's act of filing the Notice further clogs the docket and wastes judicial resources. Second, the Court refers to Wine & Canvas's buried motion to amend its response in Docket Entry 284. "A motion must not be contained within a brief, response, or reply to a previously filed motion, unless ordered by the Court." Local Rule 7-1(a). The Court admonishes and reminds counsel for Wine & Canvas to follow the rules as written.

Turning to the actual response at issue, Wine & Canvas filed with the Court an 82-page response in opposition to summary judgment and cross-motion for summary judgment (Dkt. 278). Local Rule 7-1(e)(1) provides that supporting and response briefs (excluding tables of contents, tables of authorities, appendices, and certificates of service) may not exceed 35 pages. No motion was filed for leave to file an oversized brief. The 82-page response is simply unacceptable. Wine & Canvas attempts to justify its actions by seeking leave to amend its response, which has been edited to 71 pages (Dkt. 284-1). It suggests that the Court's courtroom procedures expect and allow for such an oversized filing, citing the cross-motion for summary judgment briefing procedure. However, the Court prefers and contemplates only four briefs in such a circumstance: (1) a brief in support of the initial motion for summary judgment; (2) a combined brief in response and brief in support of cross-motion for summary judgment; (3) a combined reply in support of the initial motion for summary judgment and brief in opposition to the cross-motion for summary judgment; and (4) reply in support of cross-motion for summary judgment. This procedure is in place to avoid the precise issue presented here: parties may not double dip and submit two full-size briefs to the Court. Wine & Canvas's argument that the Court's procedure allows for a combined 70-page response and brief in support of a cross-motion for summary judgment is absurd. Parties are entitled to one 35-page brief, unless permission is given for extraordinary and compelling reasons. (*See* L.R. 7-1(e)).

The Court reiterates that the rule as to page limits on briefs is imposed to maintain judicial efficiency and to invoke fairness to opposing parties. It is imperative that counsel write lean prose that makes the necessary points and to avoid producing briefing which is tedious to read, duplicative and unnecessarily lengthy.

That said, the Court notes that it will not give permission for Wine & Canvas to file an oversized brief given the reasoning contained within its Response in Opposition to Strike and Request for Leave to Amend. Wine & Canvas is encouraged to make a good faith effort to tailor its response to the stated limit of 35 pages.

Accordingly, Mr. Muylle's Motion to Strike (Dkt. 282) is **GRANTED**. Wine & Canvas's Response in Opposition to Muylle's Motion for Summary Judgment; and, Countermotion for Summary Judgment against All Defendants (Dkt. 278) is **STRICKEN**. Additionally, Wine & Canvas's Response in Opposition to Strike and Request for Leave to Amend (Dkt. 284) is **STRICKEN** as it fails to comply with LR 7-1(a). Wine & Canvas is given seven (7) days from the date of this Entry to file a response within the stated limit of 35 pages.

SO ORDERED.

Date: 04/15/2014

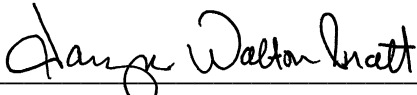
DISTRIBUTION:

Theodore Weisser
25 Rodeo Avenue, Apt. 2
Sausalito, California 94965

P. Adam Davis
DAVIS & SARBINOFF LLP
adavis@d-slaw.com

Carol Nemeth Joven
PRICE WAICUKAUSKI & RILEY
cnemeth@price-law.com

Ronald J. Waicukauski
PRICE WAICUKAUSKI & RILEY
rwaicukauski@price-law.com


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana